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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,276	04/12/2004	James Alfred White		5667

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JAMES ALFRED WHITE
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PINEVILLE, LA 71360-2912

EXAMINER

HAMILTON, ISAAC N

ART UNIT	PAPER NUMBER
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3724

MAIL DATE	DELIVERY MODE
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08/03/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/822,276

Applicant(s)

WHITE, JAMES ALFRED

Examiner

Isaac N. Hamilton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings were received on 08/29/06. These drawings are acceptable.

Specification

2. The disclosure is objected to because of the following informalities: reference signs for “teeth” and “window opening” are needed.

Appropriate correction is required.

Claim Objections

3. The Claim is objected to because of the following informalities: line 1, “The invention is a” should be changed to --A--; “potato-chip” should be changed to --potato chip,-- in lines 3-4; “sharp blade” should be changed to --fixed vertical blade-- in line 6; “a fixed” should be changed to --the fixed-- in line 8; “base1” should be changed to --base 8-- in line 9; “prevents” should be changed to --prevent-- in line 21; there are two elements that have the same name “lock nut” and these element names should be changed in order to distinguish them more clearly from one another with language such as --first lock nut-- and --second lock nut--. Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. The claim is rejected under 35 U.S.C. 103(a) as being unpatentable over Ross (2,464,993) in view of Mason (2,489,581), hereafter Mason '581, Mason (3,211,202), hereafter Mason '202, and Waller (2,156,645). Ross discloses sharp fixed blade 9; blade support 4; base 3; blade angled in column 2, lines 28-34; blade 9 sharpened at cutting edge; drive spindle 22; pilot pin 20; hole through which pin 20 passes; drive nut guide 21; means for manual cranking 24, 25, 23; crank handle 24; drive nut 32, 27, 28; window opening 26; driver with four flat teeth 34, 35; pilot pin in alignment with the drive spindle centerline in column 2, lines 45-50; lock nut for pilot pin is shown juxtaposed the head of the pilot pin and elements 9 and 10 in figure 5; drive support 5; lock nut for securing the driver to the drive spindle in column 3, lines 23-28. Note continuous spiral slice adjacent element 4 in figure 2.

Ross does not disclose a vertical blade angled horizontally at an angle perpendicular to the centerline of the drive spindle, however, Mason '581 teaches fixed vertical blade 13 angled horizontally at an angle perpendicular to the centerline of the drive spindle. It would have been obvious to provide the fixed vertical blade angled horizontally at an angle perpendicular to the centerline of the drive spindle in Ross as taught by Mason '581 in order to prevent sliced pieces from falling to the floor. Note the continuous spiral slice 20 in figure 5.

Ross does not disclose four rubber support legs, and does not disclose a hole in the blade through which the pilot pin passes however, Mason '202 teaches 4 rubber support legs in figure 2, and hole 114 through which the pilot pin passes. It would have been obvious to provide four rubber support legs in Ross as taught by Mason '202 in order to make the apparatus more portable for cleaning and rearranging workspaces, and it would have been obvious to provide a

hole in the blade through which the pilot pin passes in Ross as taught by Mason '202 in order to produce a radial cut which is more efficient because it cut all of the potato including the core.

Ross does not disclose two metal spring type counter stop arms, however, Waller teaches two metal spring type counter stop arms 2 in figure 1. It would have been obvious to provide two metal spring type counter stop arms in Ross as taught by Waller in order to make the apparatus more portable for cleaning and rearranging, and in order to prevent damage to the under surface upon which the apparatus lies.

The combination discloses the claimed invention except for the angle of the blade being 20 degrees, teeth being 7/16" length, the spindle having 3/8"-16 threads, and the continuous spiral slice approximating 0.0625 inch thickness. It would have been obvious to one of ordinary skill in the art to provide the elements mentioned above for the purpose of maximizing cutting efficiency for different types of potatoes, such as, sweet potatoes, Idaho potatoes, and red potatoes. It has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum value involves only routine skill in the art. Such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art.

Response to Arguments

6. Applicant's arguments filed 08/29/06 have been fully considered but they are not persuasive.

Applicant asserts that Ross discloses that the sharp fixed blade is not angled as is the blade in the claim limitations. However, Ross discloses in column 2, lines 28-34 that the blade is angled as the blade is angled in the claim limitations.

Applicant asserts that element 4 in Ross, which is the plate shown in figure 4, is not a blade support. However, as recited in column 2, lines 34-39, blade 9 is held to plate 4 by machine screws 14 and 15.

Applicant asserts that element 3 in Ross is not a base. However, several other elements are reliant on element 3 to support them in order to hold together the apparatus; therefore, element 3 is considered to be a base of the Ross apparatus.

Applicant asserts that the language in column 2, lines 28-34, of Ross bears no resemblance to the blade angled feature of the apparatus of the invention. However, as disclosed in the claim limitations, the cutting unit 9 in Ross is very similar to the blade angled feature of the apparatus of the invention and when Ross is combined with the features of Mason '581, the combination meets the blade angled feature of the apparatus of the invention.

Applicant asserts that blade 9 of Ross is not prior art conflicting with the design of the apparatus of the invention. However, blade 9 of Ross is prior art meeting the claim limitations of the apparatus of the invention. Applicant defines the fixed vertical blade being angled horizontally 20 degrees from perpendicular to the centerline of the drive spindle. Ross discloses a fixed blade 9. Mason '581 teaches fixed vertical blade 13 angled horizontally at an angle perpendicular to the centerline of the drive spindle. The combination of Ross and Mason '581 meets the limitation in the claim of a fixed vertical blade attached to a blade support, the blade support being attached to a base and the blade angled horizontally from perpendicular to the centerline of a drive spindle with the blade sharpened on one side for cutting.

Applicant asserts that the use of American Standard Uniform Thread Form 3/8 inch 16 threads is not disclosed in the prior art and that this thread creates high pressures toward

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disengagement of the components. It has been well established that threads of any type will create high forces and that the specific thread type disclosed in the claim does not patentably distinguish over the prior art because size is generally recognized as being within the level of ordinary skill in the art. Therefore, the size of the thread of the spindle is obvious.

Applicant asserts that the pilot pin adjusted to contact the forward end of the drive spindle and prevent the driver teeth from contacting the blade at the end of the slice is unique; however, Ross discloses that the pilot pin 20 is fixed to plate 4' and is screwed into the tapped hole of the plate to provide a stop for the driver. Therefore, the pilot pin preventing the driver teeth from contacting the blade at the end of the slice is not unique.

Applicant asserts that the pilot pin extending through a hole in the blade is unique, however, Mason '202 shows holes 114 in blades 29 in order to support and align the pilot pin with the blade. Also, Waller discloses a pilot pin 8a passing through a hole 12 in the blade 13 in order to support the weight of the potato and guide the pilot pin. Therefore, the pilot pin passing through a hole in the blade is not unique.

Applicant asserts that the drive nut guide with a drive nut assembled to it positions the drive nut adjacent the drive spindle is unique because it requires the user to use both hands to operate the apparatus, thus avoiding any injury to the user. However, Ross discloses a drive nut guide 21 with a drive nut 27, 28 and 32 that requires a user to use both hands to operate the apparatus and avoid injury. Therefore, the drive nut guide with a drive nut assembled to it positioning the drive nut adjacent the drive spindle is not unique.

Applicant asserts that the use of rubber support legs and metal spring-type counter stop arms are unique. Rubber support legs and metal spring-type counter stops exist on many

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apparatuses, but also are shown in the Robb reference c, d; in the Waller reference 2, and in the Mason '202 reference in figure 2. Therefore, the rubber support legs and the metal spring-type counter stop arms are not unique. Additionally, please note that the references date back to the early 1900's, and that Robb dates back to the 1800's. The date of the references indicates that the subject matter disclosed therein is old and well know.

Applicant asserts that Ross does not disclose that the driver is assembled to the drive spindle and secured by a lock nut. However, Ross discloses that driver 34 is assembled to drive spindle 22 and secured by a female threaded boss portion on the stem side of the element 34, wherein the female threaded boss portion is considered to be a lock nut.

Applicant asserts that Mason '202 teaches that cutters 113a, 113b and 113c are associated with the hole 114 in the blade and not the pilot pin. However, each blade 113a, 113b and 113c is not associated with the hole 114 in the blade because each blade 113a, 113b and 113c are mounted on a pin 117. Pin 117 is the element that is associated with the hole 114 in the blade of Mason '202, which is combined with Ross to meet the limitations of the claim in the instant application.

Applicant asserts that the apparatus of the invention is not mounted, but rather is placed unattached on top of a counter and secured during operation via counter stop arms and rubber support legs. However, since the rubber support legs contact the top surface of a counter and the counter stop arms contact the side surface of a counter, the apparatus of the invention is considered to be mounted to the counter.

Conclusion

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7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

8. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isaac Hamilton whose telephone number is 571-272-4509. The examiner can normally be reached on Monday through Friday between 8am and 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



IH
July 26, 2007

/Kenneth E. Peterson/

Primary Examiner